

U.S. Patent Application No.: 10/524,160
Final Office Action Dated: June 19, 2009
Response Dated: September 18, 2009

REMARKS

The above-captioned application has been carefully reviewed in light of the final Office Action to which this Amendment is responsive. Claims 21, 36 and 42 have been amended in an effort to further clarify and distinctly point out that which is regarded as the present invention. Claim 38 has been canceled. To that end, it is believed no new matter has been added to the present application.

Claims 21-42 are pending. All pending claims have been rejected in light of certain prior art. More particularly, Claims 21-42 have been rejected under 35 U.S.C. §103(a) based on previously cited Geier et al. (U.S. Patent No. 5,630,530) and Jacobsen et al. (U.S. Patent No. 4,482,170). Claim 42 has also been rejected under 35 U.S.C. §112, second paragraph. Applicant respectfully requests reconsideration based upon the amended claims, as well as the following discussion.

In order to maintain a successful "*prima facie*" obviousness rejection under the Patent Statute, each and every claimed limitation must be found in the cited prior art, whether singly or by way of combination. Any missing limitation that is not found or suggested by the prior art must be notoriously well known to one of ordinary skill in the field of the invention to one of sufficient (i.e., ordinary) skill. In terms of combinations, there should be a reason or motivation found in the prior art as a whole for making the purported combination. This combination should not be the product of impermissible hindsight (i.e., advance knowledge) of the present invention.

The Examiner presently maintains that all of the elements of independent Claim 21 are provided in the primary reference of Geier et al. (hereinafter Geier), with the exception of the gasket. Applicant respectfully disagrees with this characterization.

As previously noted in earlier correspondence, Geier uses a crimping solution in order to fix a bag onto a valve. More specifically and as described in col. 5, lines 14-16 and shown in Fig. 4, a sleeve 36 is bonded to the top of a bag or sack. A delivery nozzle 58 is used in combination with the sleeve, the nozzle being disposed within the bag and including a cylindrical collar or cap 38. In assembly, the sleeve 36 is push-fitted into the top of the bag and onto the exterior of the cylindrical cap 38. When pushed fully in place, the sleeve 36 is seated or held in

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position by means of a circumferential rim 37 (see col. 5, lines 10-16) disposed at the free end of the cylindrical cap 38. According to the teachings of this reference, the sleeve 36 is made from a material that bonds well to the bag and *"can include materials such as polyethylene, polypropylene, and the like"*. The cylindrical collar 38, however, and as noted above is part of the delivery nozzle 58 that is disposed inside of the bag. Referring to col 5, lines 21-25, *"the dispenser valve 12, namely the valve body 14, the discharge nozzle 18 and the delivery nozzle 58, is made from a material that is both resistant to breaking and impermeable to organic media. Polyacetal, for example, is suitable for this purpose."*

Therefore it is our understanding that the sleeve 36 is made from a material that is compatible with the bag (i.e., permeable to organic media) while the cylindrical cap 38, being part of the delivery nozzle, is made from a material that is not permeable to organic media.

According to Claim 21, the receptacle body and the sack are each made from materials that are permeable to organic media wherein the receptacle body is welded to the sack. Moreover, the receptacle body and the valve stem are interconnected to one another, one having an appendage that is clamped to a receptacle of the other. The valve stem is made from a material that is impermeable to organic media while the receptacle body and the sack are each made from materials which do allow permeation.

The Examiner has noted that elements 36/38 together define a receptacle body for purposes of his characterization. As already noted, the receptacle body according to the present invention is made from a material that is permeable to organic media, is welded to the sack and permits connection to the valve stem. Therefore, the receptacle body of Geier must satisfy each of the above limitations. Element 38 (cylindrical cap/collar) of the delivery nozzle 58 is not made from a material that is permeable to organic media and in fact this component is made from a material that is opposite in terms of its function. Consequently, the tubular appendage 44 of this component, also being part of the delivery nozzle 58, must similarly be fabricated. Though the sleeve 36 is made from a material that is permeable to organic media, this component alone cannot qualify as the receptacle body for purposes of Claim 21 in that the sleeve fails to attach to the valve stem, among other distinctions.

Applicant has amended independent Claim 21 to positively recite the connectivity between the valve stem and the receptacle body and further to clarify that the nature of the

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receptacle body and sack as to their constituency. To that end, it is believed no new matter has been added.

The secondary citation of Jacobsen et al. discloses a gas riser that connects underground natural gas service lines and defines a gasket for use therewith. This reference fails to provide the essentially claimed subject matter that is not found or suggested by Geier.

Therefore, none of the cited references, taken either alone or in combination, provides each of the essential recited features of the present invention according to either of amended Claim 21. Therefore, a "prima facie" obviousness rejection cannot be made under the Statute. Claims 22-35 are believed to be allowable for the same reasons since these claims depend from Claim 21. Reconsideration is therefore respectfully requested.

It is also believed that Claim 36 is patentably distinct from Geier. As noted, Geier fails to include a receptacle body that is entirely made from a material that is permeable to organic media, thereby permitting the receptacle body to be sealed or bonded to the bag directly. Geier requires the use of a separate sleeve 36 in conjunction with a delivery nozzle 58. The delivery nozzle includes a cylindrical cap 38 into which the sleeve is press fit. The delivery nozzle 58 is made from a material that is impermeable to organic media. The Examiner has maintained that elements 36/38 together define a receptacle body. Since elements 36 and 38 are made of opposing types of materials, this characterization cannot stand.

Claim 36 has been amended to positively recite that the receptacle body is made from a material that is permeable to organic media, as opposed to the valve stem and gasket thereof. In addition, the subject matter of Claim 38 has also been added to amended Claim 36. Claim 38 has been canceled. It is believed that adequate support is provided for each of these amendments and that no new matter has been added. Geier fails to define a receptacle body that is made from a material that is permeable to organic media and welded in the sack and in which the receptacle body has an appendage which is held by the valve stem for fastening on the valve stem. Again, the secondary reference to Jacobsen fails to include or suggest any of these features. As a result, Applicant believes that Claim 36, as amended, is patentably distinct from the cited art of record and that a prima facie obviousness rejection cannot be made. Claims 37 and 39-42 are believed to be allowable for the same reasons. Reconsideration is respectfully requested.

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Finally and as to the Section 112 rejection, Claim 42 has been amended to correct the antecedent basis issue noted by the Examiner. It is believed no new matter has been added. It is believed the claims are now in an allowable condition and such allowance is earnestly solicited.

In summary and in view of the above amendment, Applicant believes the above-captioned application is now in a condition for allowance and an expedited Notice of Allowability is earnestly solicited.

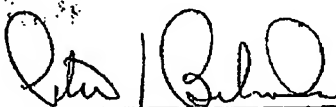
If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number listed below.

It is believed that no fees are due for the filing of this correspondence. However and in the event that any additional fees are required, the Director is hereby authorized to charge Deposit Account No. 50-3010 for any additional fees and to charge any overpayments thereto.

Respectfully submitted,

HISCOCK & BARCLAY, LLP

Date: September 18, 2009



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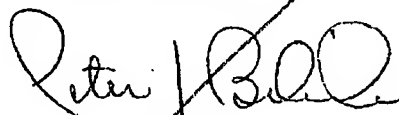
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Payment of the fees referenced above in the amount of \$810.00 will be charged to our Deposit Account 50-3010 at the time of electronic filing of this response. It is believed no other fees, other than those mentioned above, are required. However and in the event additional fees are due, the Director is authorized to charge any deficiencies or credit any excess payments to our Deposit Account No. 50-3010.

Very truly yours,



Peter J. Bilinski
Reg. No. 35,067

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